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SENATE BILL 1593 By
Crutchfield

HOUSE BILL 945
By Stulce

AN ACT to amend Tennessee Code Annotated, Title 65, Chapter 25, and to enact the "Electric Utility Comprehensive Equal Power and Authority Act of 1997".

WHEREAS, substantially all of the electricity generated and distributed for consumption in the state of Tennessee is generated by the Tennessee Valley Authority and distributed in turn by municipal electric systems and electric cooperatives; and

WHEREAS, in an increasingly competitive electric utility environment, additional services are being offered by electric utilities throughout the United States to enhance both the efficiency of electric service, and make maximum use of the facilities and assets of electric utilities; and it will be necessary for municipal electric utilities and electric cooperatives in the state of Tennessee to have the same power and authority to engage in those activities as are authorized for numerous other electric utilities throughout the United States, as well as other municipal and cooperative electric utilities in Tennessee; and

WHEREAS, under its contracts with municipal electric utilities and electric cooperatives in the state of Tennessee, the Tennessee Valley Authority has certain regulatory oversight of the business activities of municipal electric utilities and electric cooperatives that distribute TVA power; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The title of this act is, and may be cited as the "Electric Utility Comprehensive Equal Power and Authority Act of 1997".

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SECTION 2. As used in this act, unless the context otherwise requires:

(1) "Electric cooperative" means an electric cooperative or electric membership corporation, whether organized or operating under the provisions of Tennessee Code Annotated, Title 65, Chapter 25, or similar statutes of any other state, which distributes electric power purchased from the Tennessee Valley Authority;

(2) "Law" has the same definition as in Tennessee Code Annotated, Section 7-52-102(10); and

(3) "Municipal utility" means any governmental entity as defined in Tennessee Code Annotated, Section 29-20-102, having a system for the distribution of electricity, whether operated under the authority of a board of the governmental entity, a department of the governmental entity or under the authority of a board created pursuant to the provisions of the Tennessee Municipal Electric Plant Law, Tennessee Code Annotated, Title 7, Chapter 52, or by the authority of any other public or private act of the general assembly or pursuant to the charter of a municipality, and that operates an electric generation or distribution system which, as of the date of this act, distributes electricity purchased from the Tennessee Valley Authority and also includes any municipality, county or other political subdivision of another state, whether operated under a board or as a county or municipal department, which, as of the date of this act, distributes electricity purchased from the Tennessee Valley Authority.

SECTION 3. Every municipal electric utility is hereby authorized to exercise any power or authority that may be exercised under any law by any Tennessee electric cooperative or by any other Tennessee municipal electric utility.

SECTION 4. Every electric cooperative is hereby authorized to exercise any power or authority that may be exercised under any law by any other electric cooperative or by any Tennessee municipal electric utility.

SECTION 5. Every municipal electric utility and every electric cooperative is hereby:

(a) Permitted to enter into interlocal cooperation agreements under the authority of Tennessee Code Annotated, Title 12, Chapter 9, as well as the authority of this act; and

(b) Permitted to use electric system revenues in connection with the exercise of any power or authority it may exercise under any law, provided the exercise of that power or authority is not a violation of the terms and conditions of a wholesale power contract between the Tennessee Valley Authority and the respective municipal electric utility or electric cooperative. For the purpose of entering into agreements authorized under this chapter or entering into an interlocal agreement under Tennessee Code Annotated, Title 12, Chapter 9, municipal utilities and electric cooperatives are authorized to enter into interlocal agreements, as if each electric cooperative were a "public agency" for the purposes of Tennessee Code Annotated, Title 12, Chapter 9.

The general assembly hereby finds and determines that participating in such interlocal agreements by electric cooperatives and municipal utilities provides a mutual benefit to help reduce the expense of operations of municipal utilities and electric cooperatives and hence reduce the cost of electricity for the citizens of Tennessee, and hereby finds that all contributions of financial and administrative resources and associated costs and expenses are made by a municipal utility pursuant to an interlocal agreement as authorized herein, are made for a public and governmental purpose, and that all such contributions benefit the contributing municipal utilities.

SECTION 6. Any law enacted by the general assembly on or after the passage of this act granting powers or authorization to a municipal electric utility or to an electric cooperative to exercise one (1) or more powers or authority will be presumed to have been considered by a subsequent general assembly to be included within the scope of omnibus powers and authority granted under this act for every other municipal electric utility and every other electric cooperative unless the general assembly, in a subsequent law, expresses an intention

otherwise by prohibiting the exercise of that power and authority under the additional authority of this act.

SECTION 7. In the exercise of their respective powers and authority, jointly and severally, under interlocal cooperation agreements entered into under the authority of this act and Tennessee Code Annotated, Title 12, Chapter 9, electric cooperatives and municipal utilities and any separate entity or body created under Tennessee Code Annotated, Section 12-9-104(c), may exercise such powers and authority regardless of the competitive consequences thereof.

SECTION 8. Nothing in this act shall be deemed to be an implied repeal of the service area limitations established in Tennessee Code Annotated, Section 6-51-112 or Title 65, Chapter 34.

SECTION 9. This act shall be liberally construed so as to authorize all municipal electric utilities and all electric cooperatives to have equal powers and authority.

SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 11. This act shall take effect upon becoming a law, the public welfare requiring it.

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